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Estate of José Roberto Henriquez Jr.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DESIREE HENRIQUEZ, JOSEPH
IGNACIO HENRIQUEZ AND THE
ESTATE OF JOSÉ ROBERTO
HENRIQUEZ JR.

Plaintiffs

vs.

THE CITY OF BELL, BELL POLICE
DEPARTMENT, CHIEF ANTHONY
MIRANDA, OFFICERS
JOHNATHAN WALKER, KURT M.
OWENS, BILL McCULLAH, SGT.
JOSE JIMENEZ, WACKENHUT
CORPORATION AND JAILOR A.
GALLEGOS, DOES 1 through 10
inclusive,

Defendants.

CASE NO. 2:14-CV-00196-GW (SSx)

**FIRST AMENDED COMPLAINT
FOR DAMAGES:**

- (1) 42 U.S.C. § 1983 - Violation of Civil Rights;
- (2) 42 U.S.C. § 1983 - Entity Liability
- (3) 42 U.S.C. § 1983 - Supervisory Liability;
- (4) Negligence;
- (5) Violation of California Government Code § 845.6;
- (6) Violation of Civil Code 52.1, Unlawful Search and Seizure

DEMAND FOR JURY TRIAL

Plaintiffs, by and through their attorneys, LAW OFFICES OF R. SAMUEL PAZ and SONIA MERCADO & ASSOCIATES, allege as follows:

JURISDICTION AND VENUE

1. This is a civil rights wrongful death/survival action arising from Defendant's

- 1 false arrest, failure to provide access to competent medical care and treatment
 2 concerning Decedent's serious but treatable medical needs and use of
 3 unnecessary force in violation of his civil rights occurring while Decedent was
 4 under their custody and control, resulting in the death of JOSÉ ROBERTO
 5 HENRIQUEZ JR. on April 15, 2013. This action is brought pursuant to 42
 6 U.S.C. §§ 1983, 1985 and 1988, the Fourth and Fourteenth Amendments to the
 7 United States Constitution. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and
 8 1343(a)(3) and (4), and the aforementioned statutory and constitutional
 9 provisions. Plaintiffs further invoke the supplemental jurisdiction of this Court
 10 pursuant to 28 U.S.C. §1367 to hear and decide claims arising under state law.
- 11 2. Venue over Plaintiffs' claims is proper in the Central District of California
 12 because one or more of the Defendants' principal place of business is in the City
 13 of Gardena, County of Los Angeles and the events giving rise to the claim
 14 occurred in this district. 28 U.S.C. §1391(a)(1) and (b)(2).

15 **PARTIES.**

- 16 3. Plaintiffs are DESIREE HENRIQUEZ (hereinafter "Mrs. HENRIQUEZ) and
 17 JOSEPH IGNACIO HENRIQUEZ, respectively the wife and natural son of the
 18 deceased JOSE ROBERTO HENRIQUEZ JR., successors in interest pursuant to
 19 *Code of Civil Procedure § 377.22, 377.32 and 377.60 et seq.* of their deceased
 20 husband and father, and they currently reside in the County of Los Angeles, State
 21 of California. These claims are brought individually and on behalf of JOSÉ
 22 ROBERTO HENRIQUEZ JR. (hereinafter "Mr. HENRIQUEZ), deceased, and
 23 on the basis of 42 USC § 1983 and 1988 of the United States Constitution, and
 24 state civil rights and other laws.
- 25 4. At the time of the events alleged herein Mr. HENRIQUEZ was age 41 years,
 26 working as a senior security technician for a large corporate business in Southern
 27 California.
- 28 5. Defendant CITY OF BELL (hereinafter "CITY"), is a chartered subdivision of

1 the State of California with the capacity to sue and be sued. Defendant CITY is
 2 responsible for the actions, omissions, policies, procedures, practices and
 3 customs of its various agents and agencies, including the Defendant BELL
 4 POLICE DEPARTMENT (hereinafter "BPD"), and its agents and employees.
 5 At all times relevant to the facts alleged herein, Defendant CITY and BPD were
 6 responsible for assuring that the actions, omissions, policies, procedures,
 7 practices and customs of the BPD and its employees and agents complied with
 8 the federal and state laws and the Constitution of the State of California.

9 6. Defendants, Chief ANTHONY MIRANDA (hereinafter "Chief MIRANDA"),
 10 and Does 1 through 10, were at all times mentioned herein, and on or about April
 11 13, 2013, CITY and BPD employees and supervisors. They are sued in their
 12 personal capacity. They were charged by law and were responsible with the
 13 supervision of police officers JOHNATHAN WALKER (hereinafter
 14 "WALKER") KURT M. OWENS, ("OWENS") BILL McCULLAH,
 15 ("McCULLAH"), SGT. JOSE JIMENEZ (SGT. JIMENEZ"), JAILOR A.
 16 GALLEGOS ("GALLEGOS") and DOES 1-10 and other employees under their
 17 command in BPD and for the training, reprimands and corrective actions of
 18 persons, agents and employees working under their chain of command within
 19 said BPD, including officers, police officers, and for investigating, accounting
 20 and reporting their subordinates conduct to their superiors, and accountable for
 21 Does 1 through 10, inclusive, as set forth herein and below.

22 7. Defendants Officers WALKER, OWENS, McCULLAH, SGT. JIMENEZ and
 23 DOES 1-10 were employees of CITY and BPD and at all times mentioned
 24 herein, police officers and custodial staff who were responsible for the proper
 25 investigations of crimes and for providing access and delivery of medical care for
 26 serious medical problems of people in their custody and for the security, care,
 27 and safety of Plaintiff Mr. HENRIQUEZ, and were responsible for ensuring that
 28 his constitutional and statutory rights were not violated. They are sued in their

1 personal capacity.

- 2 8. WACKENHUT CORPORATION, is a California Corporation doing business in
3 Los Angeles County (hereinafter “WACKENHUT”) through its agents, officers,
4 employees, and independent contractors, and at all times mentioned herein it was
5 and is an agent of CITY and BPD and was and is under contract with CITY for
6 the purpose of providing security, supervision, care of detainees and to provide
7 access to competent medical care in a timely manner on behalf of CITY and
8 BPD to inmates and detainees under the care and control of CITY and BPD, and
9 was and is at all times mentioned herein, acting under color of law and under the
10 direction and agency of CITY and BPD to provide medical care, attention,
11 and/or access to competent medical care in a timely manner to inmates and
12 detainees. Plaintiffs allege that GALLEGOS is an agent and/or employee of
13 BPD and/or WACKENHUT acting in the course and scope of his employment.
- 14 9. Plaintiffs are informed and believe and thereon allege that Defendants sued
15 herein as Does 1 through 10, inclusive were and are police officers, medical care
16 providers, agents or employees of Defendants CITY, BPD and/or
17 WACKENHUT, and were at all relevant times acting in the course and scope of
18 their employment and agency. Plaintiffs allege that each of the Defendants
19 named as a “DOE” was in some manner responsible for the acts and omissions
20 alleged herein. Each Defendant and Doe Defendant caused and is responsible
21 for the unlawful conduct and resulting by, inter alia, personally participating in
22 the conduct, or acting jointly and in concert with others who did so; by
23 authorizing, acquiescing, condoning, acting, omitting or failing to take action to
24 prevent the unlawful conduct by promulgating or failing to promulgate policies
25 and procedures pursuant to which the unlawful conduct occurred; by failing and
26 refusing, with disregard to Plaintiffs’ rights, to initiate and maintain adequate
27 training, tracking, supervision and staffing; by failing to maintain proper and
28 adequate policies, procedures and protocols; and by ratifying, condoning and/or

1 enabling the unlawful conduct performed by agents and police officers, and
2 employees under their direction and control. Plaintiffs will ask leave of this
3 Court to amend this First Amended Complaint to allege such facts, names and
4 responsibility when that information is ascertained.

5 10. Whenever and wherever reference is made in this First Amended Complaint
6 (FAC) to any act by Defendants, such allegations and references will also be
7 deemed to mean the acts and failures to act of each Defendant individually,
8 jointly or severally.

9 11. At all material times, each Defendant and Doe Defendant acted under color of
10 the laws, statutes, ordinances, and regulations of the State of California and the
11 United States.

12 12. Plaintiffs filed a timely claim pursuant to California Government Code § 910, on
13 September 16, 2013. That claim was denied on September 19, 2013. Plaintiffs'
14 Complaint and FAC is timely filed.

15 GENERAL ALLEGATIONS

16 13. In the morning hours of Saturday, April 13, 2013, at approximately 9:30 a.m.,
17 Mr. HENRIQUEZ was lawfully driving his 2008 GMC pickup truck, on Atlantic
18 Avenue, in the City of Bell when he became ill and lost consciousness. His
19 vehicle struck a parked vehicle at a low speed near the intersection of Bell Plaza.
20 The property damage was minor. Officers WALKER, OWENS and
21 McCULLAH arrived at the scene of the property damage accident approximately
22 9:40 a.m., and were told by Mr. HENRIQUEZ that he was sick and had become
23 unconscious.

24 14. At that time, Mr. HENRIQUEZ displayed signs and symptoms of a serious but
25 treatable medical problem. He was lethargic had difficulty maintaining his
26 balance, and was nauseous. He had no drugs or alcohol in his system. As he
27 was being interviewed by Officers WALKER, OWENS and McCULLAH, Mr.
28 HENRIQUEZ vomited again and again lost consciousness momentarily. Rather

1 than providing Mr. HENRIQUEZ with immediate access to medical attention to
2 determine the causes and reasons for his serious medical condition, Officers
3 WALKER, OWENS and McCULLAH and Does 1-10 falsely arrested him and
4 charged him with Driving Under the Influence. Then rather than seeking an
5 assessment of his physical condition from a competent medical provider,
6 Officers WALKER and/or OWENS and/or McCULLAH and/or Doe Defendants
7 caused Mr. HENRIQUEZ to be driven to U.S. Healthworks, a medical clinic
8 where blood was drawn. He had no alcohol or drugs in his system. Thereafter
9 he was driven to the CITY police station.

10 15. During the booking process, Mr. HENRIQUEZ was again denied access to
11 medical attention while sitting in jail with continued obvious symptoms of a
12 serious but treatable medical problems such as dizziness, head and neck pain and
13 inability to hold himself upright or control his body. While Officers WALKER
14 and/or OWENS and/or McCULLAH and/or GALLEGOS and/or SGT
15 J.JIMENEZ and Does 1-10 police officers or other agents or employees of CITY
16 and/or WACKENHUT were handling or moving Mr. HENRIQUEZ, he was
17 either hit, pushed or allowed to fall causing him further trauma and injury.

18 16. Mr. HENRIQUEZ continued manifesting and suffering a severe headache then
19 appeared to have a seizure lasting approximately 30 seconds, accompanied with
20 vomiting. Defendants and Doe Defendants ignored his need for medical care
21 and treatment and rather than providing Mr. HENRIQUEZ access to immediate
22 medical care, Defendant Officers WALKER and/or OWENS and/or
23 McCULLAH and/or GALLEGOS and/or SGT. JIMENEZ or Doe Defendants
24 instead telephoned his co-worker asking him to report to the Bell Jail and pick up
25 Mr. HENRIQUEZ and take him home. By the time the co-worker arrived at the
26 Bell jail, he was told to wait. About 10 minutes later an officer informed him
27 that Mr. HENRIQUEZ was dispatched by paramedics to the hospital.
28 Paramedics were not requested until 11:53 a.m.

1 17. Mr. HENRIQUEZ was transported from the jail to the St. Francis Hospital
 2 Emergency Room where he arrived at 12:10 p.m. He was unconscious and
 3 unresponsive to painful stimulus. Emergency room treatment showed Mr.
 4 HENRIQUEZ had suffered a cerebral aneurysm which had ruptured and was
 5 bleeding. A toxicology scan showed no alcohol or narcotics in his system. The
 6 hospital attempted life saving surgery on April 13, 2013 and other treatment, but
 7 Mr. HENRIQUEZ died on April 15, 2013.

8 18. As a direct and proximate result of each Defendant's acts/or omissions as set
 9 above, Plaintiffs sustained the following injuries and damages, past and future,
 10 among others:

- 11 a. Wrongful death of Mr. HENRIQUEZ;
- 12 b. Hospital and Medical and Towing expenses;
- 13 c. Funeral and burial expenses;
- 14 d. Loss of familial relationships, including loss of love, companionship,
 15 comfort, affection, consortium, society, services, solace and moral
 16 support;
- 17 e. Loss of economic support;
- 18 f. Violation of Constitutional Rights;
- 19 g. All damages and penalties recoverable under 42 USC §§ 1983 and
 20 1988, and allowed under California and United States statutes, codes,
 21 and common law;
- 22 h. Mr. HENRIQUEZ's loss of life, pursuant to federal civil rights law;
- 23 i. Mr. HENRIQUEZ's conscious pain and suffering, pursuant to federal
 24 civil rights law.

25 **FIRST CAUSE OF ACTION: CONSTITUTIONAL VIOLATIONS**
 26 **UNDER 42 U.S.C. 1983 AGAINST DEFENDANTS WALKER, OWENS,**
 27 **McCULLAH, GALLEGOS AND SGT J. JIMENEZ AND DOES 1-10.**

28 19. Plaintiffs reallege paragraphs 1 through 18 above and incorporate them by

1 reference herein.

2 20. Plaintiff Mr. HENRIQUEZ was lawfully within the County of Los Angeles as
3 stated above and had not committed a crime, when Defendant Officer
4 WALKER, OWENS and McCULLAH and DOES 1-10 from the BELL Police
5 Department, without a warrant or probable cause falsely arrested Mr.
6 HENRIQUEZ in violation of his Fourth Amendment rights.

7 21. At the time of his arrest, Mr. HENRIQUEZ informed Defendants WALKER,
8 OWENS and McCULLAH and DOES 1-10 that he had committed no crime, that
9 he had fallen unconscious and was ill, however, the officers ignored him and
10 arrested him. These defendants were responsible for the safety and welfare of
11 Mr. HENRIQUEZ, at the time of his arrest and at all times thereafter while he
12 was in their custody and control until he arrived at the CITY jail.

13 22. When Mr. HENRIQUEZ arrived at the CITY jail, WALKER, OWENS,
14 McCULLAH, GALLEGOS and SGT. JIMENEZ knew or should have known,
15 that Mr. HENRIQUEZ'S condition was worsening, that he required immediate
16 access to intervention, hospitalization and medical treatment for his serious but
17 treatable medical health condition. These Defendants knew and reasonably
18 should have known that Mr. HENRIQUEZ could not care for himself and that he
19 was in their custody and control and dependent upon them for medical care and
20 treatment and access to competent and timely medical care after he arrived at the
21 CITY jail.

22 23. Defendants WALKER, OWENS, McCULLAH, GALLEGOS and SGT.
23 JIMENEZ and Doe Defendants 1-10, ignored, delayed or denied Mr.
24 HENRIQUEZ's urgently needed medical care and treatment. As a result of
25 these Defendants' deliberate indifference and/or callous disregard for Mr.
26 HENRIQUEZ's need for medical care and treatment, and their disregard and
27 ignoring of said condition, Mr. HENRIQUEZ suffered damages, pain and
28 suffering, anxiety, confusion, disorientation, loss of consciousness, vomiting,

1 nausea, loss of life and deprivation of his constitutional rights in an amount not
2 yet ascertained but to be proven.

3 24. By the actions and omissions described above, Defendants WALKER, OWENS,
4 McCULLAH, GALLEGOS and SGT JIMENEZ and Doe Defendants 1-10
5 violated 42 U.S.C. § 1983, depriving Plaintiffs of the following clearly-
6 established and well-settled constitutional rights protected by the Fourth and
7 Fourteenth Amendments to U.S. Constitution:

- 8 a. The right to be free from an unreasonable force and seizure as a pre-
9 arrestment arrestee as secured by the Fourth Amendment;
- 10 b. The right to be free from deliberate indifference to his serious medical
11 needs while in custody as a pre-arrestment arrestee as secured by the
12 Fourteenth Amendment;
- 13 c. The right to be free from wrongful government interference with familial
14 relationships, and Plaintiffs' right to companionship, society and
15 support of each other, as secured by the Fourteenth Amendment.

16 25. Defendants subjected Plaintiffs to their wrongful conduct, depriving Plaintiffs of
17 rights described herein, knowingly, maliciously, and with conscious and reckless
18 disregard for whether the rights and safety of Plaintiffs (individually and on
19 behalf of Mr. HENRIQUEZ) and others would be violated by their acts and/or
20 omissions. As a result of Defendants' actions and inactions, Plaintiffs have been
21 damaged as set forth in Paragraph 18 above.

22 26. The conduct of each individually named Defendant entitles Plaintiffs to punitive
23 damages and penalties allowable under 42 U.S.C. § 1983 and Cal. Code of Civil
24 Procedure § 377.20 et seq., and other state and federal law.

25 27. Plaintiffs are also entitled to reasonable costs and attorney fees under 42 USC §
26 1988 and applicable federal and California codes and laws.

27 **SECOND CAUSE OF ACTION: ENTITY LIABILITY FOR CUSTOM,**
28 **PRACTICE OR POLICY CAUSING CONSTITUTIONAL**

VIOLATIONS.

28. Plaintiffs reallege paragraph 1 through 26 of this Complaint and incorporate them by reference herein.

29. At all times herein mentioned, Defendants CITY and BPD and each of them, maintained customs, practices or policies that posed a substantial risk of serious harm to detainees in Mr. HENRIQUEZ's situation and each defendant knew that the following custom, practice or policy posed this risk of harm.

30. The unconstitutional actions and/or omissions of Defendants WALKER, OWENS, McCULLAH, GALLEGOS and SGT JIMENEZ as well as other officers employed by or acting on behalf of CITY and BPD, on information and belief, were pursuant to the following customs, policies, practices, and/or procedures of CITY and BPD, stated in the alternative, which were directed, encouraged, allowed, and/or ratified by policy making officers, for CITY and BPD, including Defendant Chief MIRANDA:

- a. The failure to require proper assessment of the need for urgent medical care and treatment of a detainee/inmate prior to or during the booking process;
- b. The failure to properly house and/or monitor a detainee/inmate who manifests and/or complains of having a serious medical condition;
- c. The failure to provide medical care for detainees with serious medical needs and/or to provide them access to medical care and treatment;
- d. The failure to use and/or implement appropriate and generally accepted jail procedures for handling detainees who need medical care and treatment;
- e. The failure to institute, require and enforce proper and adequate training, supervision, policies, and procedures concerning handling detainees/inmates at BPD jail who manifest or complain of serious

1 medical conditions;

2 f. The cover-up violations of constitutional rights by any or all of the
3 following:

4 I. By failing to properly investigate and/or evaluate complaints or
5 incidents related to the claimed customs, policies, practices, and
6 procedures described above in paragraphs (a) through (f);

7 ii. By ignoring and/or failing to properly and adequately investigate
8 and discipline unconstitutional or unlawful activity at the CITY
9 and BPD jail and/or by patrol officers as described above in
10 paragraphs (a) through (e);

11 iii. By allowing, tolerating, and/or encouraging police officers and
12 jail personnel to: fail to file complete and accurate reports; file
13 false reports; make false statements; intimidate, bias and/or
14 “coach” witnesses to give false information and/or to attempt to
15 bolster officers’ stories; and/or obstruct or interfere with
16 investigations of unconstitutional or unlawful police conduct, by
17 withholding and/or concealing material information;

18 g. To allow, tolerate and/or encourage a “code of silence” among law
19 enforcement officers and BPD personnel, whereby an officer or member
20 of the department does not provide adverse information against a fellow
21 officer or member of the department;

22 h. To use or tolerate inadequate, deficient and improper procedures for
23 handling, investigating and reviewing complaints of officer misconduct,
24 including claims made under California Government Code § 910 et
25 seq.; and,

26 i. To condone lax or lack of supervision by line supervisors who fail to
27 report or investigate officers and subordinate supervisors who fail to
28 provide reasonable security and/or protection resulting in detainee

1 injury and/or death.

- 2 31. The unconstitutional actions and/or omissions of Defendants Chief MIRANDA,
3 WALKER, OWENS, McCULLAH, GALLEGOS and SGT J. JIMENEZ and
4 other BPD and WACKENHUT personnel, as described above, were approved,
5 tolerated and/or ratified by policy making officers for CITY and BPD. Plaintiffs
6 are informed and believe, and thereupon allege, the details of this incident have
7 been revealed to the authorized policymakers within CITY and BPD, including
8 Chief MIRANDA, and that such policymakers have direct knowledge of the fact
9 that Mr. HENRIQUEZ was unlawfully denied necessary care for his serious
10 medical needs among other rights and accommodations. Notwithstanding this
11 knowledge, the authorized policymakers within CITY and BPD have approved
12 of the individual Defendants' conduct and decisions in this matter, and have
13 made a deliberate choice to endorse such conduct and decisions, and the basis
14 for them, that resulted in the death of Mr. HENRIQUEZ. By so doing, the
15 authorized policymakers within CITY and BPD have shown affirmative
16 agreement with the individual defendant officers' and agents' actions, and have
17 ratified the unconstitutional acts of the individual defendant officers and agents.
- 18 32. The aforementioned customs, policies, practices, and procedures, the failures to
19 properly and adequately hire, train, instruct, monitor, supervise, evaluate,
20 investigate, and discipline, as well as the unconstitutional orders, approvals,
21 ratification and toleration of wrongful conduct of Defendants CITY and BPD,
22 were a moving force and/or a proximate cause of the deprivations of Plaintiffs'
23 clearly-established and well-settled constitutional rights in violation of 42 U.S.C.
24 §1983, as more fully set forth in Paragraph 22, above.
- 25 33. As a direct and proximate result of the unconstitutional actions, omissions,
26 customs, policies, practices and procedures of Defendants CITY and BPD, as
27 described above, Plaintiffs sustained serious and permanent injuries and are
28 entitled to damages as set forth in Paragraph 18 above, and to penalties, costs

1 and attorney fees as set forth above, not including punitive damages.

2 **THIRD CAUSE OF ACTION: SUPERVISOR LIABILITY AGAINST**
 3 **DEFENDANTS CHIEF MIRANDA, SGT. JIMENEZ AND**
 4 **SUPERVISORS DOES 1-10.**

5 34. Plaintiffs reallege paragraphs 1 through 33 of this Complaint as if fully set forth
 6 herein.

7 35. Chief MIRANDA, SGT. JIMENEZ and Supervisor Defendants DOES 1-10
 8 knew or should have known that Mr. HENRIQUEZ, had committed no crime,
 9 was in need of immediate medical care, knew or should have known that Mr.
 10 HENRIQUEZ was exhibiting, complained and informed each of them that he
 11 was suffering from serious medical conditions and knew or should have known
 12 that he was in need of timely access to and/or delivery of immediate medical care
 13 and treatment, and Defendants refused and failed to take reasonable action to
 14 ensure that Mr. HENRIQUEZ, timely access and/or delivery to medical attention
 15 and treatment.

16 36. Chief MIRANDA, and Supervisor Defendants DOES 1-10 knew or should have
 17 known that Plaintiff Mr. HENRIQUEZ, was unable to care for himself and failed
 18 to provided him protection from the unnecessary use of force in the jail facility
 19 where he was being held, failed to adequately train and supervise WALKER,
 20 OWENS, McCULLAH, GALLEGOS and SGT. JIMENEZ and Does 1-10 in the
 21 proper screening of a person being booked into custody so that they would not
 22 be subject to unnecessary force or denial of timely access to medical care for a
 23 serious medical condition.

24 37. These Defendants subjected Plaintiffs to their wrongful conduct, depriving
 25 Plaintiffs of rights described herein, knowingly, maliciously, and with conscious
 26 and reckless disregard for whether the rights and safety of Plaintiffs (individually
 27 and on behalf of Mr. HENRIQUEZ) and others would be violated by their acts
 28 and/or omissions.

1 38. As a direct and proximate result of these Defendants' acts and/or omissions as
2 set forth above, Plaintiffs sustained injuries and damages as set forth at
3 paragraph 18 above.

4 39. The conduct of Defendant Chief MIRANDA, SGT. J. JIMENEZ and
5 Supervisors Doe Defendants 1-10 entitles Plaintiffs to punitive damages and
6 penalties allowable under 42 USC § 1983 and Cal. Code of Civil procedure §
7 377.20 et seq., and other state and federal law.

8 **FOURTH CAUSE OF ACTION: NEGLIGENCE AGAINST ALL**
9 **DEFENDANTS AND DOE DEFENDANTS.**

10 40. Plaintiffs reallege paragraphs 1 through 18 of this Complaint and incorporate
11 them herein as if set forth in full.

12 41. By virtue of the foregoing, Defendants Chief MIRANDA, WALKER, OWENS,
13 McCULLAH, GALLEGOS and SGT. JIMENEZ, BPD, CITY WACKENHUT
14 and DOES 1-10 has a legal duty owed to Plaintiffs, a duty of not falsely arresting
15 Mr. HENRIQUEZ and a separate duty to use due care to provide Mr.
16 HENRIQUEZ access and/or delivery to medical attention and treatment and/or
17 to ensure that their subordinates provided such access of care. These Defendants
18 knew or should have known, that delay or denial of access to medical care and
19 treatment would cause harm and injury to Mr. Henriquez and his son and wife
20 Plaintiffs.

21 42. Each individual Defendant and Doe Defendant breached said duty of care by
22 falsely arresting and delaying and/or denying access and delivery of medical
23 attention to Mr. HENRIQUEZ.

24 43. Chief MIRANDA, SGT. J. JIMENEZ and Doe Defendants 1-10, were
25 supervising officers, nurses and/or medical providers who were present at the jail
26 and knew or should have known and informed of Plaintiff Mr. HENRIQUEZ's
27 complaints, obvious condition and of his repeated request of medical care and
28

1 treatment, and knew or should have known, that failure to provide him access
2 and/or delivery to medical care and treatment would result in harm and injury to
3 him and Plaintiffs.

4 44. On, before and after April 13, 2013, Defendants Chief MIRANDA and SGT.
5 JIMENEZ, and Defendant Supervisors Does 1-10 failed to properly train, assign,
6 supervise, and guide their subordinate officers, custody and personnel assigned
7 to the BPD and to its jails, including but not limited to Defendants WALKER,
8 OWENS, McCULLAH, GALLEGOS and DOES 1-10.

9 45. Due to inadequate policies or procedures of WACKENHUT, BPD, Chief
10 MIRANDA and Defendant Supervisors Does 1-10, for supervision and security
11 of arrestees and inmates, such that the custody and medical services personnel
12 failed to see or monitor arrestees and inmates for serious but treatable medical
13 and mental health conditions and operated their jail without adequate safeguards,
14 audits, or reporting requirements reviewable by superiors.

15 46. As a result of Chief MIRANDA, SGT. JIMENEZ and defendants Supervisors
16 Doe 1-10 failure to correct the conduct of their subordinates, to provide adequate
17 staffing and the lack of said accountability measures, medical care providers,
18 officers and employees regularly delayed or denied medical health care to
19 arrestees and inmates, engaged in a pattern and practice of failing to screen or
20 monitor arrestees and inmate for serious but treatable medical health conditions,
21 thereby violating the constitutional rights of persons in custody, California's
22 Code of Regulations, Title 15, and WACKENHUT's and BPD's departmental
23 policies and procedures.

24 47. Said acts and omissions by Chief MIRANDA, defendants Supervisors Doe 1- 10
25 set in motion a series of acts by their subordinates that they knew, or reasonably
26 should have known, would be a cause of their subordinates' deprivation of Mr.
27 HENRIQUEZ'S right to access to medical care and of the damages complained
28 of herein as further set forth above.

1 48. Each Defendant and Doe Defendant was negligent as his or her conduct fell
2 below the standard of care for supervisors, police officers, nurses jailors and
3 medical providers in the community.

4 49. By virtue of the foregoing, the individual Defendants and Does 1-10 owed
5 Plaintiffs a duty of due care. This duty of care was breached in the hiring,
6 supervision, training, retention and failure to investigate and reprimand each of
7 the persons falsely arresting or delaying and/or denying Plaintiff Mr.
8 HENRIQUEZ medical attention or access to medical care and treatment or
9 failing to summons medical care.

10 50. As a result Plaintiffs suffered damages and injuries as set forth above in
11 paragraph 18 and incorporated herein.

12 **FIFTH CAUSE OF ACTION: VIOLATION OF CALIFORNIA**
13 **GOVERNMENT CODE § 845.6 AGAINST WALKER, OWENS,**
14 **McCULLAH, GALLEGOS and SGT. JIMENEZ AND DOES 1 through**
15 **10.**

16 51. Plaintiffs reallege paragraphs 1 through 17 of this Complaint and incorporate
17 them as if set forth in full herein.

18 52. At all times mentioned herein Mr. HENRIQUEZ was an arrestee of BPD and of
19 Defendants and Doe Defendants. Defendants WALKER, OWENS,
20 McCULLAH, GALLEGOS and SGT. JIMENEZ and DOE Defendants 1
21 through 10 owed a duty of care to prisoners such as Mr. HENRIQUEZ, and they
22 knew or had reason to know that Mr. HENRIQUEZ was in need of immediate
23 access to and/or delivery of immediate medical care and treatment, that he was
24 exhibiting, manifesting, complained and/or informed each of them that he was
25 suffering from a serious medical condition. These Defendant and Doe
26 Defendants 1-10 failed to take reasonable action to timely summon such medical
27 care.

28 53. Defendants' conduct was in violation of California Government Code § 845.6,

1 and was a proximate cause Mr. HENRIQUEZ's pain and suffering, past costs of
2 medical expenses, deprivation of his constitutional rights, and eventual, but
3 preventable death, all in an amount to be proven.

4 54. As a further proximate cause of Defendants actions and inactions, Mrs.
5 HENRIQUEZ and JOSEPH IGNACIO HENRIQUEZ have suffered and
6 continue to suffer damages as set forth in paragraph 18 above.

7 **SIXTH CAUSE OF ACTION VIOLATION OF CIVIL CODE 52.1,**
8 **UNLAWFUL SEARCH AND SEIZURE AGAINST WALKER, OWENS**
9 **AND McCULLAH AND DOES 1 through 10.**

10 55. Plaintiffs reallege paragraphs 1 through 26 of this Complaint and incorporate
11 them as if set forth in full herein.

12 56. Plaintiffs allege that Defendants' conduct constituted interference by threats,
13 intimidation, or coercion, or attempted interference, with the exercise of
14 enjoyment by Decedent of rights secured by the Constitution of laws of the
15 United States, or secured by the Constitution or laws of the State of California,
16 including interference with decedent's rights to be secure in his person and free
17 from the use of excessive force under Cal. Const. Art. 1 sec. 13 as well as Cal.
18 Civ. Code § 43, and the right of protection from bodily restraint and harm.

19 57. This cause of action is brought pursuant Cal. Civ. Proc. Code § 377.20(a) which
20 provides that except as otherwise provided by statute, a cause of action for or
21 against a person is not lost by reason of the person's death, but survives subject
22 to the applicable limitations period.

23 58. Defendants' conduct was in violation of Cal. Civ. Code § 52.1, and was a legal
24 cause Mr. HENRIQUEZ's pain and suffering prior to his death, past costs of
25 medical expenses, deprivation of his constitutional rights, and eventual, but
26 preventable death, all in an amount to be proven.

27

28 WHEREFORE, Plaintiffs pray for judgement as follows:

- 1 1. General and special damages in an amount according to proof;
- 2 2. Punitive damages according to proof against all defendants except
- 3 municipal defendants;
- 4 3. Costs of litigation, penalties, interest;
- 5 4. For attorneys' fees and costs as allowed by State and Federal Law; and
- 6 5. Such other and further relief as the court deems appropriate and just.

7

8

Respectfully submitted,

9

Dated: May 14, 2014

10

**LAW OFFICES OF R. SAMUEL PAZ
SONIA MERCADO & ASSOCIATES**

11

/S/ R. Samuel Paz

12

By: _____

13

R. SAMUEL PAZ,

14

SONIA M. MERCADO,

15

Co-Counsels for Plaintiffs Desiree Henriquez,

16

Joseph Ignacio Henriquez and the Estate of Jose
Roberto Henriquez Jr.

17

JURY DEMAND

18

Trial by jury of all issues is hereby demanded.

19

Dated: May 14, 2014

20

**LAW OFFICES OF R. SAMUEL PAZ
SONIA MERCADO & ASSOCIATES**

21

/S/ R. Samuel Paz

22

By: _____

23

R. SAMUEL PAZ,

24

SONIA M. MERCADO,

25

Co-Counsels for Plaintiffs Desiree Henriquez,

26

Joseph Ignacio Henriquez and the Estate of Jose
Roberto Henriquez Jr.

27

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